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JUL 27 2004

OFFICE OF PETITIONS

In re Application of :
Steven O. Markel :
Application No. 10/766,723 :
Filed: January 27, 2004 :
Attorney Docket No. INTE.32USU1(ITC36) :

DECISION GRANTING PETITION

This is a decision on the petition filed July 2, 2004, requesting that the above-identified application be accorded a filing date of January 27, 2004, instead of the presently accorded date of January 28, 2003.

Petitioner alleges that the application was deposited in "Express Mail" Service with the U. S. Postal Service (USPS) on January 27, 2004. In support, petitioner provides, *inter alia*, a copy of the "Express Mail" mailing label receipt No. EL975282287US, showing a "Date-In" of "01 27 04". The same Express Mail receipt number appears on the original transmittal letter found in the file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the USPS on January 27, 2004.

The petition is GRANTED. Under the circumstances, no petition fee is required.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of James M. Denaro appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Denaro desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application is being returned to Initial Patent Examination Division for correction of the filing date to **January 27, 2004** and to issue a corrected filing receipt.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: James M. Denaro
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